

HB 619 -- First Degree Murder

Sponsor: Ellinger

This bill allows a person who has been sentenced to death to file a motion seeking forensic DNA testing if the testing will demonstrate the person's innocence as it relates to any aggravating factor of the crime that led to the person being sentenced to death even if the person cannot claim that he or she is innocent of first degree murder. The motion must allege certain specified facts. The court must order testing if the court finds a reasonable probability exists that the person would not have been convicted or sentenced to death if exculpatory results had been obtained through the requested DNA testing.

If the DNA testing demonstrates a person's innocence regarding the aggravating circumstance or circumstances relied on by the trier of fact when sentencing the offender to death, a motion for release or a motion for a new sentence may be filed in the sentencing court.

If the court finds that the testing demonstrates the person's innocence as it relates to the aggravating circumstance or circumstances relied on by the trier of fact when sentencing the offender to death, the court must order the person to serve a sentence of imprisonment for life without eligibility for probation, parole, or release except by act of the Governor.

The punishment for murder in the first degree for a person 18 years of age or older who engaged in the act that caused the victim's death, directed or controlled another person to commit the murder, or entered into an agreement with another person for that person to commit the murder must be death or imprisonment for life without eligibility for probation, parole, or release except by act of the Governor.

The punishment for a person who has not reached his or her eighteenth birthday at the time of the commission of the crime, regardless of the circumstances of the first degree murder, must be life without eligibility for probation, parole, or release until the person has served a minimum prison term of 25 years.

The punishment for a person eighteen years of age or older who has been found guilty of first degree murder, but who did not engage in the act that caused the death; did not direct or control another person; or did not enter into an agreement with another person to commit the murder must be life without eligibility for probation, parole, or release except by act of the Governor.

The court in any case of murder in the first degree for which the death penalty is authorized must instruct the jury on any specific

mitigating circumstance offered by the defendant that is supported by evidence regardless of whether the circumstance is specifically listed in Section 565.032.3, RSMo.

The bill changes the laws regarding the statutory aggravating circumstances for a murder in the first degree offense to only include:

(1) The offense was committed by a person with a prior record of conviction for murder in the first degree or was committed while the offender was subject to a term of life imprisonment without eligibility for probation, parole, or conditional release;

(2) The murder in the first degree involved the infliction of severe physical pain during or immediately prior to the murder for the purpose of making the victim suffer before dying;

(3) The murder was committed against any peace officer, employee of a correctional institution or facility, or firefighter while engaged in the performance of his or her official duty;

(4) The murder was committed in furtherance of a purposeful attack on the government of the state or any of its political subdivisions;

(5) The murder was committed for the purpose of interfering with or retaliating against a pending criminal investigation or proceeding; or

(6) The offender committed murder in the first degree against two or more victims.